

## **Fair Political Practices Commission**

### **Memorandum**

**To:** Chairman Schnur, Commissioners Garrett, Hodson, Montgomery and Rotunda

**From:** Val Joyce, Commission Counsel  
Scott Hallabrin, General Counsel

**Subject:** Adoption of Amendment to Regulation 18404.1 – Termination and Reopening of Committees (Recommendation of the Chairman’s Task Force on the Political Reform Act)

**Date:** January 18, 2011

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**Proposed Commission Action and Staff Recommendation:** Adopt the proposed amendment to Regulation 18404.1, concerning the termination and reopening of committees.

**Reasons for Proposal:** Regulation 18404.1 sets deadlines for termination of a state candidate controlled committee. The deadlines are triggered by the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, the election from which the candidate withdrew. The deadline for committees that have net debt is 24 months from the triggering event. The deadline can be extended only by approval of the Executive Director. By eliminating the requirement that these committees be terminated, the Commission would make it less cumbersome for a committee with net debt to continue raising funds to pay the debt. In addition, terminating a committee when it still has net debt places a candidate’s personal assets at risk for debts incurred by the terminated committee. The deadline for terminating a state candidate controlled committee that has no net debt is 9 months from the triggering event. Changing the deadline to 24 months will give committees with surplus funds more time to decide how to dispose of their surplus funds.

**Summary of Proposed Action:**

Section 85316(a) permits candidates for elective state office to accept contributions after the date of the election only to the extent that the contributions do not exceed “net debts outstanding” from the election.<sup>1</sup> Section 84214 provides that committees and candidates shall terminate their filing obligations pursuant to regulations adopted by the Commission that insure that a candidate for elective state office or the candidate’s controlled committee will have no activity that must be disclosed under the Act. Regulation 18404.1 sets forth requirements for the termination of these committees and procedures to request an extension of time.

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<sup>1</sup> Regulation 18531.61 defines “net debts outstanding” to include amounts necessary to cover the cost of raising funds to pay net debt outstanding, costs related to complying with post-election requirements of the Act, necessary administrative costs related to winding down the campaign, legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots and the total amount of unpaid debts, loans and accrued expenditures (less cash on hand and amounts owed to the committee.)

Under Regulation 18404.1, candidate controlled committees organized for elective state office that have net debts outstanding must be terminated no later than 24 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew. Committees that have no net debts outstanding must be terminated not later than 9 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 9 months after the election from which the candidate withdrew.

Subdivision (f) of Regulation 18404.1 provides that a state candidate controlled committee may request an extension of up to six months for termination of the committee and places no limit on the number of times a committee may request an extension.

Requiring termination of committees that have net debts outstanding imposes an unnecessary burden on committees requesting an extension and Commission staff which must consider and act on these requests. The requirement is unnecessary because the Commission almost always grants the requests. To do otherwise, the Commission could be limiting a committee's ability to pay its debts and put the candidate's personal assets at risk for payment of the committee's debts. Rather than require these committees to repeatedly continue requesting an extension of time to raise funds to pay debt, the proposed amendment will permit these committees to remain open until they have paid all their debt. These committees are subject to all of the disclosure requirements imposed on committees under the Act. Hence, the revision would not thwart the disclosure purposes of the Act.

The proposed amendment also changes the deadline for terminating state candidate controlled committees that have no net debts outstanding from 9 months to 24 months from the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew. This change is intended to give committees with surplus funds more time to decide how to dispose of those surplus funds.

The proposed amendment also contains technical changes that eliminate obsolete provisions governing committees organized for elections held prior to 2001 and candidates defeated in elections between January 1, 2001 and February 15, 2002 and eliminates several technical procedures applicable to a committee's request to remain open.

**Attachments:**

- 1 – Regulation 18404.1
- 2 – Section 85316
- 3 - Section 84214
- 4 – Regulation 18531.61